IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTIETH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION NO : 1105 of 1998

Between:

K. Seshikanth , S/o K.V. Sesha Rao, aged about 34 years, occ: STD/PT Operator, Pradeepnagar, Vizianagaram, Vizianagaram District

..... PETITIONER

AND

1 The District Collector, Vizianagaram, Vizianagaram District.
2 The Joint Collector, Vizianagaram, Vizianagaram District.
3 The Mandal Revenue Officer, Vizianagaram, Vizianagaram District.
4 Vizianagaram Municipality represented by its Commissioner, Vizianagaram.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to pass an appropriate Writ, order or direction preferably a Writ in the nature of Mandamus declaring the action of the Respondents in trying to illegally shift the petitioner's STD/PT Booth situated at Jaggayyamma Mango Tope in Pradeepnagar, Vizianagaram admeasuring 6' X 8' as being illegal, arbitrary and violative of Articles 14 & 21 and 300-A of the constitution of India and consequently direct the respondents not to dispossess the petitioner from the premises at Jaggayyamma Mango Tope in Pradeepnagar, Vizianagaram.

Counsel for the Petitioner: MR.RAMESH KUMAR NAYANI

Counsel for the Respondent Nos. 1 to 3 : G.P. for Revenue

Counsel for the Respondent No.4: Mr. E. Sambasiva Pratap,
S.C. for Municipalities

The Court made the following :

O R D E R

The petitioner, who is physically handicapped person, was allotted a Telephone Booth in Pradeepnagar area at Vizianagaram. However, on account of road widening scheme, the petitioner was asked to remove the said bunk and alternatively he was provided another S.T.D. booth at Jaggayyamma Mango Tope in Pradeepnagar vide proceedings No. R.C. 5747/97/G2, dated 25.11.1997 and ever-since he was in continuous possession of the same and carrying on business in S.T.D. booth. The said allotment was done by the Vizianagaram Municipality, but the Mandal Revenue Officer visited the petitioner's S.T.D. booth situated at Jaggayyamma Mango Tope and asked him to vacate the said premises stating that the Municipality has no right whatsoever to allot the said land to the petitioner. At that juncture, he approached this Court and filed the present Writ Petition seeking a direction to the respondents not to dispossess him from the said premises.

This writ petition was admitted on 18.01.1998 and on the same day this Court directed the respondents not to dispossess the petitioners from the petition schedule land.

Detailed counter-affidavits are filed by the Mandal Revenue Officer, Vizianagaram i.e. 3rd respondent herein and also by the Municipality, Vizianagaram i.e. 4th respondent herein. According to them, the said land is required for the purpose of constructing Consumer Forum building and thus it necessitated the revenue officials to seek eviction of the petitioners from the petition schedule land. Further, it is stated in the said counter-affidavits that the said allotment made by the Municipality is unauthorized, as the Municipality has no right over the said land, whereas the stand taken by the Municipality is that it is a land belonging to the Municipality and during the course of rehabilitation only it allotted the said land to the petitioner as he himself voluntarily removed his bunk situated at Pradeepnagar.

Heard both the learned counsel.

Admittedly the petitioner is a crippled man and initially he was allotted a S.T.D. booth and he was carrying on with the said business by locating booth at Pradeepnagar. When the Municipality wanted it for the purpose of road widening, he himself volunteered and agreed to vacate the said premises and as an alternative 4th respondent-municipality has come forward and allotted the present site to the petitioner for the purpose of establishing S.T.D. booth. On instructions, the counsel have stated that the Consumer Forum has already been constructed adjacent to the S.T.D. booth belonging to the petitioner and they also submitted that by virtue of the interim orders passed by this Court, the petitioner was allowed to continue in the S.T.D. booth.

As the purpose for which the petitioner was sought to be evicted is no more in existence and as the petitioner is allowed to continue his S.T.D. booth in the petition schedule lands, I deem it appropriate to permit the respondents to continue the petitioner in the existing booth. However, if the respondents, either the Municipality or the Mandal Revenue Officer, to whom the said land belongs, want the same for public purpose they can definitely evict the petitioner after providing him alternative land taking into consideration the fact

that he is a handicapped person.

This writ petition is accordingly disposed of. No costs.

20th December, 2004

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To

1. The District Collector, Vizianagaram, Vizianagaram District,
2. The Joint Collector, Vizianagaram, Vizianagaram District,
3. The Mandal Revenue Officer, Vizianagaram, Vizianagaram Dist.
4. The Commissioner, Vizianagaram Municipality, Vizianagaram
5. 2 C.Cs to the Govt. Pleader for Revenue, High Court buildings, Hyderabad (O.U.T.)
6. 2 C.D. copies.